RD AN No. 4185 (4279-B)
May 11, 2006

SUBJECT: Business and Industry Guaranteed Loan Program
Clarification of a New vs. Existing Business

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify the difference between a new and an existing business for the purpose of applying the tangible balance sheet equity requirement.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4065 (4279-B) dated March 31, 2005.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-B, section 4279.131(d), states: "A minimum of 10 percent tangible balance sheet equity will be required for existing businesses. . . . A minimum of 20 percent tangible balance sheet equity will be required for new businesses . . . ." A business, in accordance with RD Instruction 4279-B, section 4279.108(a), may include manufacturing, wholesaling, retailing, providing services or other activities that will provide employment, improve the economic or environmental climate, promote aquaculture, or reduce reliance on nonrenewable energy resources.

EXPIRATION DATE:
May 31, 2007

FILING INSTRUCTIONS:
Preceding RD Instruction 4279-B

A new business is a newly opened establishment that has not been in operation for at least 1 full year, and an existing business is a business that has been in operation for at least 1 full year. Newly-formed entities building ground-up facilities, even if there are affiliated businesses doing the same kind of business, are new businesses. Mergers or changes in the business name or legal type of currently operating businesses are considered to be existing businesses as long as the business purpose has not changed significantly. However, RD Instruction 4279-B, section 4279.131(d)(3), gives the Agency the latitude to require a higher equity requirement on riskier loans if conditions warrant. A change in ownership, management or location of a currently operating business or a business in an industry with serious problems could represent increased risk, and a higher equity requirement should be considered. An existing business that has not been profitable also represents an increased risk for which a higher equity requirement should be considered, assuming the project passed your close scrutiny of the financial feasibility of the project in order to be approved. Significant changes in operations of an existing business could result in the need for a feasibility study and an increased equity requirement. Loan Specialists should assess the circumstances and risk of a project and, based on the perception of that risk, the equity requirement should be increased accordingly. The casefile should clearly document what equity requirement was imposed and all factors considered in making the decision.

If you have any questions, please contact Kenya Nicholas, Loan Specialist, Business and Industry Division, (202) 720-1970.

(Signed by Jackie J. Gleason)

JACKIE J. GLEASON
Acting Administrator
Business and Cooperative Programs